

Attorney Docket No. HORA.P0101US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of

Applicant: Horace Winston Hale et al.

Serial No.: UNKNOWN

Filed: HEREWITH

For: FACET IMPLANT

Art Unit: UNKNOWN

Examiner: UNKNOWN

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

1. Pursuant to 37 C.F.R. 1.97 and 1.98, and in compliance with 37 C.F.R. 1.56, the Office's attention is directed to the patents, pending applications, publications and other information listed on the attached PTO-1449. A copy of each listed document is enclosed except for: (a) pending applications or (b) those previously cited or submitted to the Office in the following application(s) upon which this application relies for an earlier filing date under 35 U.S.C. 120:

Serial No.: _____
Filing Date: _____

Regarding any document, publication or other information for which a date is not given on the attached PTO-1449, Applicant(s) believe(s) the same may qualify as "prior" art to this application and should be treated accordingly, although Applicant(s) reserve(s) the right to contest the prior art status of any document, publication or information, should issue arise.

2. Regarding each listed document that is not in the English language, an English-language translation accompanies this Statement as indicated on the attached PTO-1449 or a concise explanation of the relevance of the document is set forth in the following document(s):

(a) Copy of each English language version of a search report indicating the degree of relevance found by the foreign office of each document being submitted from the search report.

(b) Attachment entitled "Concise Explanation of Relevance of Non-English Language Documents".

3. Pursuant to 37 C.F.R. 1.97(b) this Statement is being filed (one must be checked):

(a) Within 3 months of the filing date, date of entry into the National Stage, or filing date of CPA.

(b) Before the mailing date of a first Office Action on the merits. If this Statement is not filed before the mailing date of a first Office Action on the merits, the required certification is given below or, in the absence thereof, the Office is authorized to charge the required fee set forth in 37 C.F.R. 1.17(p) to Deposit Account No. 18-0988 for consideration of this Statement.

(c) Before the mailing date of a first Office Action on the merits after a first or second submission after final rejection under 37 C.F.R. 1.129(a).

(d) After the period set forth in 37 C.F.R. 1.97(b) but before the mailing date of either a final action or a notice of allowance.

(1) The required certification is given below, or

(2) Enclosed is a check for \$180.00 covering the fee set forth in 37 C.F.R. 1.17(p) for consideration of this Statement, or

(3) Charge the fee set forth in 37 C.F.R. 1.17(p) to Deposit Account No. 18-0988

(e) After the mailing date of either a final action or a notice of allowance, but before payment of the issue fee. Petition hereby is made for consideration of this Statement and the required certification is indicated below.

(1) Enclosed is a check covering the fee set forth in 37 C.F.R. 1.17(p), or

(2) Charge the fee set forth in 37 C.F.R. 1.17(p) to Deposit Account No. 18-0988.

4. Certification (if applicable)

(a) The undersigned hereby certifies that each item of information contained in this Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than 3 months prior to the filing of this Statement.

(b) The undersigned hereby certifies that no item of information contained in this Statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to the undersigned's knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. 1.56(c) more than 3 months prior to the filing of this Statement.

5. The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 18-0988.

Respectfully Submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

By _____

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CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence (along with any paper referenced as being attached or enclosed) is being deposited on the below date with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 8/29/03

Deirdre Preston
Deirdre Preston

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| Form PTO-1449 (Modified) | | Atty Docket No. HORA.P0101US | Serial No. UNKNOWN |
| LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT (Use several sheets if necessary) | | Applicant: Horace Winston Hale | |
| | | Filing Date HEREWITH | Group UNKNOWN |

U.S. PATENT DOCUMENTS

| Examiner Initial | Document Number | Date | Name | Class | Sub-class | Filing Date if Appropriate |
|------------------|--------------------|----------|---------------|-------|-----------|----------------------------|
| | US 2002/0123806 A1 | 09/05/02 | Reiley | | | |
| | US 2003/0028250 A1 | 02/06/03 | Reiley et al. | | | |
| | 5,571,191 | 11/05/96 | Fitz | | | |
| | 6,132,464 | 10/17/00 | Martin | | | |
| | | | | | | |

FOREIGN PATENT DOCUMENTS

| Examiner Initial | Document Number | Date | Country | Class | Sub-class | Translation | |
|------------------|-----------------|------|---------|-------|-----------|-------------|----|
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OTHER ART

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|------------------|--|
| Examiner Initial | Author, Title, Date, Pertinent Pages, etc. |
| | CHIU, J.C., DAVIS, G.W., CLIFFORD, T., AND GREENSPAN M. Translaminar Facet Screw Fixation [retrieved on 05/27/2003]. Retrieved from the Internet:< http://www.spinecenter.com/papers/facet/facet.htm |
| | Nabil A. Ebraheim, Rongming Xu, Eric Challgren, and Richard A. Yeasting, Journal of Spiral Disorders, "Quantitative Anatomy of the Cervical Facet and the Posterior Projection of Its Inferior Facet," Vol. 10, No. 4, pp. 308-316, 1997 |
| | Jan P.J. van Schaik and Bart van Pinxteren, Journal of Spinal Disorders, "Curvature of the Lower Lumbar Facet Joints: Variations at Different Levels and Relationship with Orientation," Vol. 12, No. 4, pp. 341-347, 1999 |
| | Jike Lu, M.D., Nabil A. Ebraheim, M.D., and Richard A. Yeasting, PhD, The American Journal of Orthopedics, "Translaminar Facet Screw Placement: an Anatomic Study," pp. 550-555, August, 1999 |
| | Nabil A. Ebraheim, M.D., Rongming Xu, M.D., Huammad Ahmad, M.D. and Richard A. Yeasting, PhD, "The Quantitative Anatomy of the Thoracic Facet and the Posterior Projection of Its Inferior Facet," SPINE Volume 22, Number 16, pp. 1811-1818, 1997 |
| | Manohar M. Panjabi, PhD, Thomas Oxland, MASc, Koichiro Takata, M.D., Vijay Goel, PhD, Joanne Duranceau, M.S. and Martin Krag, M.D., "Articular Facets of the Human Spine, Quantitative Three-Dimensional Anatomy," Spine Volume 18, Number 10, pp. 1298-1310, 1993 |

| Examiner Initial | Author, Title, Date, Pertinent Pages, etc. |
|------------------|---|
| / | Scott D. Boden, M.D., K. Daniel Riew, M.D., Ken Yamaguchi, M.D., Thomas P. Branch, M.D., Dieter Schellinger, M.D., and Sam W. Wiesel, Atlanta Georgia, "Orientation of the Lumbar Facet Joints: Association with Degenerative Disc Disease," The Journal of Bone and Joint Surgery, Inc., Vol. 78-A, No. 3, March, 1996 |
| ✓ | John M Cavanaugh, A. Cuneyt Ozaktay, H. Toshihiko Yamashita, and Albert I. King, "Lumbar Facet Pain: Biomechanics Neuroanatomy and Neurophysiology," Survey Article, J. Biomechanics, Vol. 29, No. 9, pp. 1117-1129, 1996 |

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| EXAMINER | DATE CONSIDERED |
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Information Disclosure Statement PTO-1449 (Modified)

The identification of any reference is not intended to be, and should not be understood as being, an admission that such publication, in fact, constitutes "prior art" within the meaning of applicable law since, for example, a given reference may have a later effective date than first seems apparent or the reference may have an effective date which can be antedated. The "prior art" status of any reference is a matter to be resolved during prosecution.
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